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Before the
Federal Communications Commission
Washington, D.C. 20054

In the Matter of	)	
	)	
Assessment and Collection of Regulatory	)	MD Docket No. 08-65
Fees for Fiscal Year 2008	)	RM-11312

COMMENTS OF PACIFIC CROSSING LIMITED AND PC LANDING CORP.

John Ofenloch
Senior Vice President
Pacific Crossing Limited
5956 Sherry Lane
Suite 1000
Dallas, TX 75225-8021
Phone: (214) 451-6919
Fax: (214) 451-6999

Martin L. Stern
Kirkpatrick & Lockhart Preston Gates Ellis LLP
1601 K Street, NW
Washington, D.C. 20006
Phone: (202) 778-9000
Fax: (202) 778-9100

Counsel for Pacific Crossing Limited and PC Landing Corp.

Dated: May 30, 2008

TABLE OF CONTENTS

Page

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	)	
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Pacific Crossing Limited ("PCL") and PC Landing Corp. (collectively, the "PCL Commenters") hereby submit these comments in response to the Notice of Proposed Rulemaking of the Federal Communications Commission ("FCC" or "Commission") in the captioned proceeding.[1] The *2008 Fee Notice* grants the Petition for Rulemaking of VSNL Telecommunications (US) Inc., which urged the Commission to revise its regulatory fee methodology applicable to international bearer circuits ("IBCs") sold by private submarine cable operators,[2] and seeks comment on the methodology used to calculate regulatory fees from providers of IBCs, which include facilities-based international common carriers, non-common carrier submarine cable operators, and non-common carrier satellite operators. In the *2008 Fee Notice*, the Commission also seeks comment on whether the Commission should retain the current methodology used to calculate IBC fees or whether it should be changed or modified, and, if so, recommendations as to how to change the fee methodology.

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[1] *See* Notice of Proposed Rulemaking, *Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket No. 08-65, RM-11312, FCC 08-126 (rel. May 8, 2008)(the "*2008 Fee Notice*").

[2] *See* Petition for Rulemaking of VSNL Telecommunications (US) Inc., *Matter of Assessment and Collection of Regulatory Fees for Fiscal Year* 2006, RM-11312 (filed Feb. 6 2006) ("VSNL Petition"). The Commission released a public notice seeking comment on the VSNL Petition on February 15, 2006.

INTRODUCTION AND SUMMARY

The PCL Commenters applaud the Commission's decision to examine at long last the hopelessly antiquated IBC methodology, and to determine whether it should put in place a new, hopefully streamlined and easily administered, method for determining annual regulatory fees applicable to submarine cable operators. PC Landing Corp., a wholly-owned subsidiary of Pacific Crossing Limited, is the cable landing licensee for the Pacific Crossing ("PC-1") submarine cable system, a 13,076 route-mile fiber optic submarine cable system linking Japan and the United States. The company, which is a significant IBC regulatory fee payor, is a leading independent provider of undersea connectivity between the United States and Japan.[3]

The PCL Commenters, like others in the undersea cable industry, believe that the current IBC methodology has a deleterious impact on the submarine cable business, creates severe economic distortions in undersea capacity markets, creates perverse incentives for operators and their customers, and is virtually impossible to administer fairly and equitably. The current fee methodology, based on 64 Kbps voice-grade circuit equivalents, has no place in an unchannelized broadband world where multigigabit services are common and cable capacity continues to dramatically expand. Indeed, available submarine cable capacity between the U.S. and all international points at year end 2006, according to the Commission, was over 7500 Gbps,

[3] On July 19, 2002, PC Landing Corp., together with its then-parent, Pacific Crossing Ltd. ("Old PCL"), and certain other affiliates of Old PCL (collectively, the "PCL Debtors"), commenced voluntary chapter 11 cases in the U.S. Bankruptcy Court in Delaware. *In re PC Landing Corp., et al.*, Chap. 11, Case No. 02-12086 (PJW) (Bankr. D. Del.). In February 2005, the PCL Debtors filed a plan of reorganization plan with the bankruptcy court, as later amended (the "Plan"). The Plan was confirmed by the bankruptcy court on November 10, 2005. On December 30, 2005, the Plan was consummated, and the PCL Debtors emerged from bankruptcy as a stand alone, independent telecommunications company, with Pacific Crossing Limited as the corporate parent.

91 Million voice grade channels, and is predicted to grow to over 14,000 Gbps by 2009 – over *175 Million, 64 Kbps voice channels.*[4]

As will be discussed below, the current methodology has been plagued by rampant undercounting of total activated capacity that has been institutionalized into the methodology over its fourteen year history, as the Commission has based each successive year's estimate of activated capacity on the payment units it used for the previous year. As a result, this year's proposed fee is based on an aggregate circuit count that is less than 20% of industry estimates of capacity in use on submarine cables, and the per circuit regulatory fee is more than five times higher than it otherwise would be. As a result, when this inflated unit fee is applied to the sale of multigigabit circuits on submarine cable systems, revenue is consumed and profit disappears, fundamentally altering the economics of the subsea cable business.

The Commission's uneven administration of the fee combined with inherent ambiguities in how circuits should be counted and how others should be excluded, creates, on the one hand, perverse incentives for cable operators because each is left to its own interpretation of ambiguous rules that the Commission has administered with little or no formal guidance. On the other hand, because providers are largely left to their own devices, certain providers are clearly overpaying while others are underpaying. The gap between overpayors and underpayors creates gross inequalities in the marketplace, flowing not from a provider's competitive acumen or the quality of its services, but from how the FCC administers regulation of the industry through the current fee methodology.

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[4] *See* International Bureau Report, 2006 Section 43.82 Circuit Status Data, at 33 (Table 7) (Feb. 2008)("Circuit Status Report").

This is not a system that can be repaired, and with the expected growth of subsea capacity to over 140 Million subsea circuits by the end of this year,[5] it is not a system that makes sense to repair. At present, there are some 40 licensed submarine cable systems and 95 facilities-based common carriers reporting active circuits. There is no reasoned or justifiable basis for allocating among them (together with the handful of satellite operators selling IBCs) the $7 Million or $8 Million IBC category revenue requirement using tens of millions of circuits, other than, in the Commission's own words, simply to "retain the established methods and policies that the Commission has used to collect regulatory fees in the past."[6]

Instead, the Commission should establish a system that eliminates the distortions in the current one; a system that is straightforward, transparent and easy to apply and administer; and a system that provides financial certainty and does not interfere with commercial transactions or otherwise undermine the economic health of regulated entities.

The PCL Commenters believe that a per system fee, as described in the joint proposal from a group of submarine cable system operators filed contemporaneously herewith (the "Joint SCS Fee Proposal") is just such a system. As will be discussed, this per system fee will be fair, equitable, and easily administrable. It will eliminate all of the issues associated with the existing fee, and will ensure that the Commission will cover its revenue requirement without creating winners and losers in the marketplace because each system will pay its fair share of its regulatory burden. Consequently, the PCL Commenters join with other submarine cable operators in supporting the Joint SCS Fee Proposal filed contemporaneously in this docket. That proposal

[5] *See* Circuit Status Report, at 33 (Table 7).

[6] *See 2008 Fee Notice* at 2.

should be expeditiously adopted and applied to the determination of 2008 FY regulatory fees applicable to the current IBC category contributors.

DISCUSSION

A. The Commission's IBC Fee Methodology

Section 9 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 159, requires the Commission to assess annual regulatory fees to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities. Each year, the Commission determines the costs in that fiscal year that it is required to recover from regulatees, and typically in the second quarter, commences a rulemaking proceeding to determine the methods and policies it will use to collect regulatory fees from various categories of payees. In the *2008 Fee Notice*, the Commission proposes to determine regulatory fees for Fiscal Year 2008 – October 1, 2007 to September 30, 2008, which it intends to collect in the August-September timeframe in order to collect the required amount by the end of the fiscal year.

Typically, the Commission will proportionally allocate among fee categories – IBC fees being one such category – the total amount that must be collected from each fee category through its Section 9 regulatory fees. This is essentially the "revenue requirement" that the Commission has determined must be collected from a particular category. For FY 2008, the Commission seeks to recover $312,000,000, and has determined that the specific revenue requirement for the IBC category is $8,149,636.[7]

[7] This is an increase in approximately $600,000 from last year's revenue requirement applicable to the IBC category of $7,548425. *See* Report and Order and Further Notice of Proposed Rulemaking, *Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, 22 FCC Rcd 15712, 15767 (2007) ("*2007 Fee Notice*") Overall, the PCL Commenters question the Commission's allocation of this revenue requirement to the IBC category given the low level of Commission regulatory supervision of submarine cables, relative to other

For each fee category, the Commission divides the revenue requirement for that category by its estimate of the aggregate "payment units" in that category to determine the proposed unit fee. In the case of IBCs, the payment units are active 64 Kbps circuits, and the unit fee is the charge per 64 Kbps circuit.

Attachment B to the *2008 Fee Notice* provides the sources for FY 2008 payment unit estimates. According to Attachment B, the Commission "adjusted FY 2007 payment units" based on estimates obtained through a variety of means, including for example, actual prior year payment records and industry and trade association projections, when available.[8] According to the *Notice,* the Commission "tried to obtain verification for these estimates from multiple sources and, in all cases, . . . compared FY 2008 estimates with actual FY 2007 payment units to ensure that our revised estimates were reasonable."[9] In the case of IBCs, in particular, Attachment B reports that the payment unit estimates were based on "IB [International Bureau] reports and actual FY 2007 payment units."[10]

Essentially, the Commission found, based on its review of these "sources of payment unit estimates," that aggregate IBC payment units increased by 300,000 circuits, from 7,200,000 active 64 Kbps circuits for FY 2007 to 7,500,000 active 64 Kbps circuits for FY 2008.[11] Dividing its FY 2008 estimated payment units of 7,500,000 into the IBC revenue requirement of $8,149,636, the Commission proposes a per IBC fee of $1.09 per 64 Kbps IBC.[12]

Commission regulated providers. That being said, the PCL Commenters are focusing their comments on the IBC fee methodology, rather than on how the Commission determines the overall revenue requirement for the category.

[8] *2008 Fee Notice* at Attachment B.

[9] *Id.*

[10] *Id.*

[11] *Compare 2007 Fee Notice*, 22 FCC Rcd at 15767, Attachment C *with 2008 Fee Notice,* Attachment C.

[12] *2008 Fee Notice* at Attachment C.

B. The IBC Regulatory Fee Methodology Grossly Inflates the Per-Circuit Fee Charged

Under the Commission's methodology, the aggregate IBC payment units are supposedly based on "*all* active international bearer circuits connecting the United States with foreign points."[13] Thus, according to the Public Notice issued by the Office of Managing Director, regulatory fees are supposed to be paid yearly for all active circuits connecting the United States.[14] The universe of IBC fees -- the payment units that supposedly form the denominator in the equation that lead to the per circuit fee paid by operators -- are the IBC circuits maintained by facilities-based common carriers in international transmission circuits *plus* the remainder of active circuits that non-common carrier cable operators and satellite providers sell or lease to non-carrier third parties, or to themselves. In theory, then "*all* active circuits connecting the United States with foreign points" are supposed to be captured in the denominator.

In the *2008 Fee Notice*, the Commission proposes, based supposedly on "IB Reports and actual FY 2007 payment units," 7.5 Million IBC payment units as the denominator for the FY 2008 IBC fee, an increase of just 300,000 payment units from last year's total of 7.2 Million. This estimate is patently belied by the International Bureau reports upon which it is supposedly based.

For example, the most recent International Bureau Report on 2006 Section 43.82 Circuit Status Data,[15] shows that at year end 2006, *international common carriers alone maintained 7.55 Million active 64 KB circuits*. In other words, if the Commission's FY 2008 payment units estimate is to be believed, private cable operators could not have sold a single circuit to non-

[13] Public Notice, Compliance With Regulatory Fee Requirements By Cable Landing Licensees Operating On A Non-Common Carrier Basis, DA 04-2027 (rel. July 6, 2004).

[14] *Id.*

[15] Circuit Status Report, at 29 (Table 5).

common carriers. This of course is obviously flat out wrong, as the Circuit Status Report, itself acknowledges.[16] Indeed, based on data from Telegeography, the authoritative source for industry data on the submarine cable industry, at year end 2007, there were the equivalent of approximately *40.5 Million circuits on submarine cables landing in the United States in use for Internet, voice, and private networks. This represents over 5.5 times the Commission estimate of 7.5 Million active circuits.*[17] Moreover, according to the Circuit Status Report, active circuits maintained by international common carriers alone increased by approximately 1.5 Million circuits from 6.04 Million circuits at year end 2005 to 7.5 Million circuits at year end 2006. Even assuming that this growth rate remained constant from 2006 to 2007, this would represent *five times* the 300,000 growth in IBC payment units estimated in the *Notice.*[18]

This data, however, does not even account for the growth in active circuits on submarine cables, which is not reported in the Circuit Status Report. According to data from Telegeography, the growth in used capacity on submarine cables from 2006 to 2007 was the equivalent of 9,471,168, 64 Kbps circuits, *32 times the growth in active circuit payment units proposed in the 2008 Fee Notice.*

Overall, as shown in Attachment A, if the Commission used actual estimates of active circuits, the per revenue fee would plummet from $1.09 to $.20 per circuit. Put another way, the per circuit fee proposed by the Commission is over five times higher than what it actually should be.

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[16] *See* Circuit Status Report at 4, n.10. (noting, for example, that for non-common cables, which represent approximately 95% of total subsea capacity, much of the capacity is sold to end-users, including ISPs, foreign carriers, and foreign ISPs, and hence excluded from the 7.55 Million reported circuits).

[17] *See* Attachment A, hereto. The PCL Commenters are utilizing "used capacity" (i.e., capacity being used for Internet, voice, or private networks) as reported by Telegeography, as a reasonable proxy for "active circuits," which, according to the Commission, are circuits that are "in service."

[18] Circuit Status Report, at 29.

C. The Current Fee Methodology is Grossly Unjust and Inequitable and Creates Severe Distortions in Undersea Markets

The import of this undercounting by the Commission is staggering. Most fundamentally, because the payment units are grossly underestimated, the regulatory fee per circuit is orders of magnitude higher than it otherwise should be. The result is that IBC regulatory fees represent a substantial cost incurred by a submarine cable operator in providing its service. Leaving aside the inequities involved in undercounting, one reason for this is that the price per unit of capacity on submarine cables dramatically decreases with circuit size, while the regulatory fee as a percent of circuit size remains constant. As an example, based on comments previously filed with the Commission, a ten gigabit wave may cost eight times as much as an STM-1, but is 64 times larger.[19] As a result, IBC fees, which remain constant with circuit size, can account for a substantial and increasing percentage of revenue for higher bandwidth services. For example, the 2007 regulatory fee applicable to an active ten gigabit service was $127,008, while current generation high capacity cable systems permit ten gigabit services on certain routes that can be purchased for less than $180,000 per year.[20]

The impact on smaller circuits is likewise dramatic. For example, lease of a 2.5 gigabit wave on Atlantic routes costs approximately $102,000 per year, based on publicly available data.[21] The 2007 regulatory fee on such a circuit, which is suitable for a large ISP, voice reseller or multinational corporation, was $31,753 or 31 percent of the circuit price. Imposing what

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[19] Joint Comments, *Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2007,* MD Docket No. 07-81, at 5 (filed May 3, 2007)("Joint Comments").

[20] *Id.* at 6.

[21] Ex parte notice filed by Level 3 Communications, Inc., *et al., Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2007,* MD Docket No. 07-81 (filed May 23, 2007).

amounts to an exorbitant, confiscatory tax in this disproportionate fashion[22] not only ignores changes in the market and developments in technology, but in ignoring today's commercial realities the fees also substantially hinder new development and innovation in the industry.

In PCL's experience, this uneven regulatory burden plays an increasing role in the marketplace and interferes with commercial transactions. For example:

- The Operations, Administration and Maintenance (OA&M) charge for a particular circuit is charged as an annual fixed percentage of the price of an Indefeasible Right of Use ("IRU"). Customers expect the IBC fee to be built into the OA&M price. Currently the IBC fee can account to more than 50% of the OA&M fee, leaving less than the necessary amount for the maintenance of the circuit over time. This puts the company in a position of raising its OA&M fee percentage above market – and losing the sale – or reducing maintenance of the circuit below its costs to keep the business.

- Because OA&M fees do not cover regulatory charges, especially on higher bandwidth circuits, operators seek to pass on the charges to their customers. However, customers have significant concerns in not being able to define the annual regulatory costs. The fact that PCL cannot tell the customer what the fee will be with any certainty has lead to significant delay and contractual difficulties in reaching agreement. In addition, because the company does not know until the third quarter what the fee will be based on active capacity at the end of the previous year, it cannot define the fee sufficiently for customers, nor can it be assured that the fee will be paid by the customer in full if we estimate it. Use of a true up process, in turn, further delays and complicates the commercial arrangement, and increases the risk that the circuit order will be lost because of the level of commercial uncertainty it adds to the transaction. Additionally, the level of the fee significantly increases the cost of the circuit. This further increases the risk that the sale will be lost, particularly on competitive routes, where others are either willing to absorb the fee, or may be choosing not to pay it.

- More recently, customers have outright refused to pay the IBC fee, meaning that PCL either absorbs the fee itself or loses the business.

[22] *See Joint Comments* at 8-9.

D. The IBC Fee Methodology Must Be Changed for Submarine Cable Operators to a Flat, Per-System Fee

At bottom, in the regulatory fee context, IBCs have one purpose and one purpose only -- they serve as the basis by which the Commission attempts to allocate the IBC revenue requirement -- this year approximately $8 Million -- among submarine cable operators, satellite operators, and facilities-based international common carriers. It is hard to imagine a system for allocating costs among users that could be as fundamentally flawed, inequitable, and administratively unmanageable as the IBC regulatory fee system.

The Commission's existing IBC regulatory fee methodology was designed for the voice-centric telecommunications environment of an earlier time, based on 64 Kbps voice channel equivalent circuits. Technological advances and new applications have resulted in a shift away from a voice-centric smaller circuit channelized business model towards an application-neutral, unchannelized larger capacity broadband model. IBC fees are based on a defunct architecture and place a huge burden on high-capacity submarine cable systems that move data more efficiently and less expensively than earlier cables and satellites.

Indeed, for FY 1995, a year after the IBC fee was applied for the first time, the Commission estimated a total of *125,000 64 Kbps circuits* as the basis for allocating its IBC category revenue requirement among international operators and common carriers.[23] Today, the Commission is attempting to allocate an $8.1 Million revenue requirement on the basis of *7.5 million payment units*, when it appears there are at least 40 Million units, resulting in a grossly

[23] *See Assessment and Collection of Regulatory Fees for Fiscal Year 1996,* Report and Order, 11 FCC Rcd 18774, ¶ 60 (1996).

inflated per circuit fee, suggesting significant undercounting and that certain parties are overpaying and others are underpaying.[24]

Over time, this problem will become even more extreme as additional new cable capacity comes on line. For example, the Commission estimates that trans-Pacific capacity will increase to five times its 2006 level once newly-approved cables come on line in 2008.[25] Moreover, based on existing and approved cable landing license applications, the Commission expects total cable capacity to grow from approximately 91 Million, 64 Kbps circuits as of year end 2006 to 175 million circuits by year end 2009, suggesting that this undercounting and reporting issue will only become more pronounced over time.[26] Even if just 30 percent of these circuits are activated --*53 Million circuits* -- it is unreasonable to believe that each operator's share of these 53 Million circuits can be accurately determined, much less used as the basis for determining each

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[24] The fact that certain parties are paying much more than their fair share under the existing methodology, implicates clear cut equal protection concerns on at least two different bases. First, the significant disparity in the fee paid by similarly situated parties, raises the inference that those that are overpaying have been "singled out" for invidious discrimination. *See Village of Willowbrook v. Olech*, 528 U.S. 562 (2000) (per curiam) (recognizing "class of one" equal protection claims in such circumstances). Moreover, to the extent that that an operator that is overpaying is part of a class of operators that are being discriminated against in the imposition of fees, it can raise a claim based on its inclusion in that class. *See Karchnak v. Swatara Township*, No. 07-CV-1405, slip op. at 9 (M.D. Pa. Feb. 11, 2008) (holding that plaintiff could bring an equal protection claim under "two paradigms" either as member of a protected class or by alleging that it belongs to a "class of one"). It is true that the standard for equal protection claims involving economic regulation that does not burden a protected class has been lenient, but it is not toothless. Where a classification in the economic field is totally irrational it will be struck down. *See United States Dept. of Agriculture v. Moreno*, 413 U.S. 528 (1973)(striking down food stamp regulation and stating that "[t]raditional equal protection analysis does not require that every classification be drawn with precise *'mathematical nicety.' Dandridge v. Williams, 397 U.S. at 485.* But the classification here in issue is not only 'imprecise,' it is wholly without any rational basis.") As stated in *F.S. Royster Guano Co. v. Virginia,* 253 U.S. 412, 415 (1920), "the classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." *See also Hartford Ins. Co. v. Harrison,* 301 U.S. 459 (1937)(invalidating a statute which forbade stock insurance companies, but not mutual companies, to act through agents who were their salaried employees); *Smith v. Cahoon*, 283 U.S. 553 (1931)(law requiring private motor vehicle carriers to obtain certificates of convenience and necessity and to furnish security for the protection of the public held invalid because of the exemption of carriers of fish, farm, and dairy products). Based on the above, it is clear that the Commission's method for assessing IBC bearer fees and its implementation has become wholly arbitrary and lacks any reasonable basis. It thus raises equal protection problems as well as more general concerns about arbitrary and capricious governmental action.

[25] Circuit Status Report, at 4 n.12.

[26] *Id.* at 33.

operator's share of the revenue requirement burden. As such, the issues the industry is now facing with grossly inflated per circuit fees, will only worsen over time.

The answer, however, is not to put in place a further layer of regulation to police the system and ensure that each one of the tens of millions of circuits are accounted for and allocated to a particular submarine cable operator or carrier, merely so the Commission can allocate and collect $7 million or $8 million dollars in fees. Rather, the calculation system itself is irreparably broken, and what is needed is a new, easily manageable system. It is simply not feasible to allocate revenue requirements on the basis of tens of millions of 64 Kbps circuits in the current environment. There is no administratively reasonable or feasible way for the Commission to correctly account for all of the active circuits such that the system becomes fair and equitable with all parties paying their appropriate share of the revenue requirement.

Instead, the PCL Commenters urge the Commission to replace the current IBC-based fee applicable to submarine cable operators, with the flat, per system fee set forth in the Joint SCS Fee Proposal submitted contemporaneously, herewith. That proposal eliminates all of the concerns associated with application of the existing IBC fee to submarine cable operators. Most fundamentally, it replaces IBCs as the payment unit for submarine cable systems, with a payment unit defined as separately licensed submarine cable systems. This change, in and of itself, eliminates all of the uncertainty, unfairness, perverse reporting incentives, administrative difficulties, and market distorting effects of the current system. Rather than payment units in the tens of millions that are subject to chronic undercounting, potential manipulation, and that are impossible to fairly and accurately allocate, the payment units under the Joint SCS Fee Proposal number in the tens and fairly and evenly allocate the Commission's revenue requirement among all submarine cable systems. Moreover, instead of economically handicapping large capacity

systems selling multigigabit circuits, the new proposed regulation would create a level playing field, no matter how old or new the system, and no matter its success in selling and activating new capacity.

The revenue requirement for the new SCS fee category should be determined by assessing the regulatory effort expended by the Commission regulating the submarine cable sector, relative to facilities based international common carriers. The PCL Commenters believe that an appropriate starting place would be 50% of the current IBC revenue requirement, recognizing that consideration should be given to further downward adjustment in the allocation to reflect the limited regulatory effort associated with this sector.[27]

In sum, under the Joint Proposed SCS Fee, the payment units are clear and certain, and the system would be fair, equitable, and easily administrable. As such, it avoids all of the pitfalls of the application of the current circuit-based fee to submarine cable operators. Consequently, the PCL Commenters join with other submarine cable operators in supporting the Joint SCS Fee Proposal filed contemporaneously in this docket. The PCL Commenters urge the Commission to expeditiously adopt the proposal and apply it to the determination of 2008 FY regulatory fees applicable to the current IBC category contributors.

[27] The PCL Commenters also note, as discussed above, that there are currently approximately 40 separately licensed international cables systems, compared with 95 facilities-based common carriers that have circuits in international transmission facilities. On that basis alone, an appropriate allocation for the SCS category would be 30% of the old IBC revenue requirement.

CONCLUSION

For the foregoing reasons, the Commission should eliminate application of the per circuit IBC regulatory fee to submarine cable operators, and replace it with the per-system fee more fully set out in the Joint SCS Fee Proposal.

Respectfully submitted,

PACIFIC CROSSING LIMITED AND PC LANDING CORP.

By: /s/

Martin L. Stern
Kirkpatrick & Lockhart Preston Gates Ellis LLP
1601 K Street, NW
Washington, D.C. 20006
Phone: (202) 778-9000
Fax: (202) 778-9100

Counsel for Pacific Crossing Limited and PC Landing Corp.

John Ofenloch
Senior Vice President
Pacific Crossing Limited
5956 Sherry Lane
Suite 1000
Dallas, TX 75225-8021
Phone: (214) 451-6919
Fax: (214) 451-6999

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ATTACHMENT A

ESTIMATED USED CAPACITY ON SUBMARINE CABLES
ALL INTERNATIONAL POINTS
YEAR-END 2007

Region	Active Circuits (Gbps)
Trans-Atlantic	2,089
Trans-Pacific	841
U.S. - Latin America	416
Total Used Circuits	3,346
Total 64k Circuits **	40,473,216
FY 2008 IBC Rev Requirement	$ 8,149,636.00
What per circuit fee should be ***	$ .20
FY 2008 Proposed Fee	$ 1.09
Factor Proposed Fee Inflated	5.5

**** 1 Gbps = 12,096 64 Kbps Circuits**
***** Revenue Requirement/Actual Active Circuits**

Source: Telegeography. Used Capacity is capacity in use for Internet, voice, or private networks.

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May 2008, a copy of the foregoing Comments was served by hand, on each of the persons listed on the attached service list.

/s/
Joanne Little

SERVICE LIST

Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Michael J. Copps
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Jonathan S. Adelstein
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Deborah Taylor Tate
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Robert M. McDowell
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Aaron Goldberger
Legal Advisor
Office of Chairman Martin
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Bruce Liang Gottlieb
Legal Advisor
Office of Commissioner Copps
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Renee Roland Crittendon
Legal Advisor
Office of Commissioner Adelstein
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Wayne Leighton
Legal Advisor
Office of Commissioner Taylor Tate
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Angela E. Giancarlo
Legal Advisor
Office of Commissioner McDowell
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Anthony Dale
Managing Director
Office of Managing Director
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Mark Stone
Deputy Managing Director
Office of Managing Director
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Mika Savir
Office of Managing Director
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Helen Domenici
Bureau Chief
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

James Ball
Chief – Policy Division
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Cathy Hsu
Policy Division
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

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445 12th Street, S.W., Room CY-B402
Washington, DC 20554